

1971. No. 126

[NC]

LICENSING ACT (NORTHERN IRELAND) 1971**Date of Commencement**

ORDER, DATED 30TH APRIL 1971, MADE BY THE MINISTER OF HOME AFFAIRS UNDER SECTION 87(2) OF AND PARAGRAPH 20 OF SCHEDULE 11 TO THE LICENSING ACT (NORTHERN IRELAND) 1971.

I, the Right Honourable Brian Faulkner, D.L., Minister of Home Affairs, in exercise of the powers conferred on me by section 87(2) of and paragraph 20 of Schedule 11 to the Licensing Act (Northern Ireland) 1971(a) (hereinafter referred to as "the Act") and all other powers thereunto enabling do hereby make the following order.

Dated this 30th day of April 1971.

Brian Faulkner,
Minister of Home Affairs.

Citation

1. This Order may be cited as the Licensing Act (Northern Ireland) 1971 (Date of Commencement) Order 1971.

Days appointed for commencement

2.—(1) The provisions of the Act specified in the first column of Part I of Schedule I, together with the repeals set out in the Appendix thereto, shall come into operation on 3rd May 1971.

(2) The transitional provisions set out in Part II of Schedule I shall have effect pending the making of County Court Rules and Magistrates' Courts Rules for the purposes of the provisions specified in Part I of that Schedule.

(3) The provisions of the Act specified in the first column of Part I of Schedule II, together with the repeals set out in the Appendix thereto, shall come into operation on 10th May 1971 and the transitional provisions set out in Part II of that Schedule shall apply for the purposes of the provisions specified in Part I thereof.

(4) The provisions of the Act specified in Part I of Schedule III, together with the repeal set out in the Appendix thereto, shall come into operation on 1st October 1971. Pending the coming into operation of that repeal the transitional provisions in Part II of that Schedule shall have effect.

SCHEDULE I

PART I

Provisions operative from 3rd May 1971

Provisions of the Act	Subject Matter of Provisions
Part I	
Section 1	Prohibition of sale of intoxicating liquor without a licence
Section 2	Persons to whom a licence may be granted
Section 3	Premises for which licences may be granted
Section 4	Grant of licences
Section 5	Powers of court on applications for licences
Section 6	Grant of licence conditional on alterations being made in premises
Section 7	Provisional grant of licences
Section 8	Preliminary approval of sites and disposal in certain cases
Section 10	Duration of new licences
Section 11	Applications for the renewal of licences
Section 12	Powers of court hearing applications for renewal
Section 13	Power to renew licences out of time
Section 14	Renewal of licence pending grant of new licence
Section 16	Continuance of licence pending determination of appeal
Section 17	Duration of renewed licence
Section 18	Applications for the transfer of licences
Section 19	Powers of court on applications for transfer
Section 20	Concurrent transfer and renewal of licences
Section 22	Appeal from transfer
Section 23	Protection orders
Section 24	Supplementary provisions relating to protection orders
Section 25	Temporary continuance of business on death, bankruptcy, etc.
Section 26	Temporary continuance of business in other premises
Section 27	Occasional licences
Section 28	Separation of certain licensed premises from other business premises
Section 29	Suitability of certain premises for functions
Section 30	Restaurant not to contain a bar
Section 31	Consent required for certain alterations to premises
Section 32	New licences required on reconstruction of premises
Section 33	Form of licence
Section 34	Register of licences
Section 35	Inspection of register
Section 36	Returns to Ministry
Section 37	Register of licences to be evidence
Section 38	Proof, etc., of licence
Section 39	Provisions as to licences where premises are acquired under statutory powers
Section 40	Temporary occupation of licensed premises for purpose of carrying on business

Provisions of the Act	Subject Matter of Provisions
Part V	
Section 75	Special provisions with respect to grant or renewal of licences for seamen's canteens
Section 76	Sales by wholesalers, etc.
Section 77	Abolition of special dealer's licences and certificates for grant of wholesale beer dealer's licences
Section 78	Sale of intoxicating liquor, etc., by pharmacist
Section 79	Licences for non-seagoing vessels
Section 80	Application of Act to certain seagoing vessels and to aircraft and railway passenger vehicles
Section 83	Appeals
Section 84 (in its application to provisions brought into operation by this Schedule)	Interpretation
Section 85 (in its application to provisions brought into operation by this Schedule)	Exemptions and savings
Section 86(1)-(4)	Modifications of Schedules, amendments, transitional provisions
Section 86(5) (in its application to repeals specified in the Appendix to this Schedule)	Repeals
Schedule 1	Applications for the grant of licences
Schedule 2	Meaning of "subsisting licence"
Schedule 3	Approval of sites, disposal of sites or premises and grant of licences for premises on approved sites
Schedule 4	Applications for the renewal of licences
Schedule 5	Applications for the transfer of licences
Schedule 6	Applications for protection orders and authorisations of temporary continuance of businesses
Schedule 7	Applications for occasional licences
Schedule 8	Applications and notices under Section 31
Schedule 10	Amendments of statutory provisions
Part I	
Paragraph 1	(Amendment of Section 4 of the Intoxicating Liquor Act (Northern Ireland) 1923)
Paragraph 2	(Repeal of requirement as to grant of certificate of fitness for grant of methylated spirits retail excise licence)
Schedule 11	Transitional provisions

APPENDIX

Repeals operative from 3rd May 1971

Session or Year and Chapter	Short Title	Extent of Repeal
3 & 4 Wm. IV c. 68	The Licensing (Ireland) Act 1833	Sections 2, 3, 4, 6, 9 and 13
6 & 7 Wm. IV c. 38	The Licensing (Ireland) Act 1836	Section 2
8 & 9 Vict. c. 64	The Spirits (Ireland) Act 1845	The whole Act
17 & 18 Vict. c. 89	The Spirits (Ireland) Act 1854	In section 2 the words from "that spirits" to "place, or" and the words from "any spirits shall" to "thereof, or"
18 & 19 Vict. c. 62	The Licensing (Ireland) Act 1855	Sections 9 to 11 The whole Act
18 & 19 Vict. c. 114	The Public House (Ireland) Act 1855	The whole Act
23 & 24 Vict. c. 35	The Licensing (Ireland) Act 1860	The whole Act
26 & 27 Vict. c. 33	The Revenue Act 1863	The whole Act
27 & 28 Vict. c. 35	The Beerhouses (Ireland) Act (1864)	Sections 3, 4 and 5
34 & 35 Vict. c. 111	The Beerhouses (Ireland) Act (1864) Amendment Act 1871	The whole Act
35 & 36 Vict. c. 94	The Licensing Act 1872	Sections 69, 73, 82 and 90
37 & 38 Vict. c. 69	The Licensing (Ireland) Act 1874	Sections 8, 10, 11, 12, 14, 16, 17 and 19
40 & 41 Vict. c. 4	The Beer Licences Regulation (Ireland) Act 1877	Section 2
63 & 64 Vict. c. 30	The Beer Retailers' and Spirit Grocers' Retail Licences (Ireland) Act 1900	The whole Act
13 & 14 Geo. 5 c. 12	The Intoxicating Liquor Act (Northern Ireland) 1923	Sections 2, 4(2), 6, 9 and 12(2)
13 & 14 Geo. 5 c. 14	The Finance Act 1923	In section 13(6) the words "other than sections nine and ten of the Spirits (Ireland) Act 1854"
17 & 18 Geo. 5 c. 21	The Intoxicating Liquor and Licensing Act (Northern Ireland) 1927	Sections 1, 3, 4, 5, 6 (except in relation to licences granted before the appointed day) and 7(1) and Schedule 1
18 & 19 Geo. 5 c. 9	The Finance Act (Northern Ireland) 1928	Section 1
1948 c. 4	The Development of Tourist Traffic Act (Northern Ireland) 1948	Section 24

Session or Year and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2 c. 44	The Customs and Excise Act 1952	In section 117(3) the words from "or in Northern Ireland" onwards In section 146(6) the proviso In section 307(1) the definition of "justices' certificate" and in paragraph (c) of the definition of "justices' licence" and "justices' on-licence" the words "or justices' certificate" In Schedule 10, paragraphs 5, 8, 10 and 12
1952 c. 3	The Development of Tourist Traffic (Amendment) Act (Northern Ireland) 1952	Section 7
1954 c. 8	The Excise (Amendment) Act (Northern Ireland) 1954	Section 2
1957 c. 5	The Revaluation (Amendment and Consequential Provisions) Act (Northern Ireland) 1957	Section 9
1959 c. 1	The Intoxicating Liquor and Licensing Act (Northern Ireland) 1959	Sections 2, 3 and 4
1963 c. 8	The Licensing Act (Northern Ireland) 1963	The whole Act
1964 c. 5	The Occasional Licences (Amendment) Act (Northern Ireland) 1964	The whole Act
1964 c. 36	The Businesses Tenancies Act (Northern Ireland) 1964	Section 53(3)
1967 c. 20	The Finance Act (Northern Ireland) 1967	Section 15 (except subsections (1)(b) and (6)) In section 16(2) the words "or authorise the removal of" So much of Schedule 2 as amends any of the provisions repealed upon the coming into force of this Appendix
1967 c. 54	The Finance Act 1967	In paragraph 7 of Schedule VI, in paragraph (c) of the definition of "justices' licence" and "justices' on-licence" the words "or justices' certificate"
1970. c. 1	The Harbours Act (Northern Ireland) 1970	Section 35(1) and (2)

PART II

**Transitional provisions for the purposes of so much of the Act
as is operative from 3rd May 1971***Forms and fees prescribed by 1968 Court Rules to apply to procedure under
Part I, etc., of the Act pending the coming into operation of new Rules*

1.—(1) Pending the coming into operation of County Court and Magistrates' Courts Rules for the purposes of Part I and section 75 of and Schedules 1, 3, 4, 5, 6, 7 and 8 to the Act—

(a) the forms of notice of application and other forms prescribed by the County Court (Licensing) Rules (Northern Ireland) 1968(b) and the Magistrates' Courts (Licensing) Rules (Northern Ireland) 1968(c) shall, subject to sub-paragraph (2) and with all other necessary modifications, be used; and

(b) the court fees so prescribed shall be payable in connection with proceedings thereunder.

(2) The said forms shall specify to which kind of premises as set out in section 3(1)(a) to (g) of the Act the application or, as the case may be, the licence refers.

Registers of licences

2.—(1) Pending the coming into force of regulations prescribing the form of register to be kept under section 34 of the Act, the particulars referred to in paragraphs (a) to (f) of subsection (1) of that section shall be entered in the appropriate place in the register prescribed by the Licensing Registration Regulations (Northern Ireland) 1928(d) and the kind of premises as set out in section 3(1)(a) to (g) of the Act and any order made under section 29, 44 or 45 of the Act shall be entered in column 3 of the register as set out in the Schedule to those Regulations.

(2) The details of any alterations to premises for which consent is given by the court under section 31 of the Act shall be entered in column 7 of the register as set out in that Schedule.

Draft plans required under Schedule 11 to be submitted to divisional commander on request

3.—(1) The divisional commander of the police division in which the premises of an hotel is situated may at any time on reasonable notice require the holder of the existing licence for the premises to submit to him a draft of the plan referred to in paragraph 6 of Schedule 11.

(2) Such plan shall be on substantial paper and show each floor of the premises on a separate page measuring not more than 18" by 18".

(b) S.R. & O. (N.I.) 1968, No. 89.
(d) S.R. & O. (N.I.) 1928, No. 27.

(c) S.R. & O. (N.I.) 1968, No. 90.

SCHEDULE II

PART I

Provisions operative from 10th May 1971

Provisions of the Act	Subject Matter of Provisions
Part I	
Section 9	Effect on new licence of suspension of surrendered licence
Section 15	Renewal of suspended licences
Section 21	Transfer of suspended licences
Part II	
Section 41	Prohibition of sale, etc., of intoxicating liquor outside permitted hours
Section 42	General permitted hours
Section 43	Permitted hours in hotels and restaurants on Sunday and Christmas Day
Section 44	Alternative permitted hours for off-sales
Section 45	Additional permitted hours in hotels or restaurants providing entertainment
Section 46	Permitted hours for places of public entertainment
Section 47	Exceptions for residents in hotels, etc., and deliveries
Section 48	Consumption or removal after permitted hours of liquor bought during those hours
Section 50	Persons found on licensed premises outside permitted hours, etc.
Section 51	Power of Minister to vary hours in certain circumstances
Part III	
Section 52	Penalty for selling, etc., intoxicating liquor without a licence
Section 53	Restrictions on sale of certain kinds of alcohol
Section 54	Penalty for permitting consumption of intoxicating liquor in unlicensed part of premises
Section 55	Penalty for breach of terms of off-licence
Section 56	Selling, etc., intoxicating liquor contrary to conditions applicable to certain licences
Section 57	Conditions as to sale, etc., of intoxicating liquor in hotels on Sunday or Christmas Day and in restaurants
Section 58	Places of public entertainment
Section 59	Seamen's canteens
Section 60	Conditions as to the delivery of intoxicating liquor
Section 61	Minors prohibited from bars
Section 62	Sale, etc., of intoxicating liquor to minors
Section 63	Drunkenness in licensed premises
Section 64	Procuring drink for drunken person
Section 65	Power to exclude drunken persons, etc., from licensed premises
Section 66	Prostitutes not to be allowed to assemble on licensed premises
Section 67	Right of police to enter premises
Section 68	Search warrant
Section 69	Persons found on unlicensed premises, etc.
Section 70	Production of licence

Provisions of the Act	Subject Matter of Provisions
Part IV	
Section 71	Suspension of licences
Section 72	Penalty for opening licensed premises during period of suspension
Section 73	Procedure in connection with suspension
Section 74	Suspension of licence not to take effect pending appeal against conviction
Part V	
Section 82	Evidence
Section 83	Appeals
Section 84 (in its application to provisions brought into operation by this Schedule)	Interpretation
Section 85 (in its application to provisions brought into operation by this Schedule)	Exemptions and savings
Section 86 (in its application to provisions brought into operation by this Schedule)	Amendments and repeals

APPENDIX

Repeals operative from 10th May 1971

So much of the enactments set out in Schedule 12 to the Act (Repeals) as being repealed to the extent specified in column 3 of that Schedule and as is not referred to in column 3 of the Appendix to Schedule I of this Order is repealed from 10th May with the exception of the following:—

Session or Year and Chapter	Short Title	Extent to which Repeals not operative from 10th May
20 & 21 Vict. c. 40	The Illicit Distillation (Ireland) Act 1857	In section 2 the words "the Spirits (Ireland) Act 1854, or of" In section 3 the words "of the said last mentioned Act and"
13 & 14 Geo. 5 c. 14	The Finance Act 1923	In section 13(6) the words "the Spirits (Ireland) Act 1854" where they first occur
17 & 18 Geo. 5 c. 21	The Intoxicating Liquor and Licensing Act (Northern Ireland) 1927	Section 2(2)
1959 c. 1	The Intoxicating Liquor and Licensing Act (Northern Ireland) 1959	Section 7
1967 c. 29	The Increase of Fines Act (Northern Ireland) 1967	So much of the entry in Part I of the Schedule to the Spirits (Ireland) Act 1854 as relates to section 5 thereof

PART II

**Transitional provisions for purposes of so much of Act
as is operative from 10th May 1971**

Any reference in any of the provisions of the Act brought into operation by this Schedule to a licence or to licensed premises shall, without prejudice to any provisions of the Act or to section 29 of the Interpretation Act (Northern Ireland) 1954(e), be construed as a reference to any existing licence or to premises, as the case may be, for which an existing licence is in force at the relevant date for premises of the appropriate kind specified in section 3(1)(a) to (g).

SCHEDULE III

PART I

Provisions operative from 1st October 1971

Provisions of the Act	Subject Matter of Provisions
Section 49	Extension licences for sale, etc., of liquor in certain premises outside permitted hours
Sections 84, 85 and 86 (in their application to section 49)	Interpretation, exemptions and savings, repeals, etc.

APPENDIX

Repeal operative from 1st October 1971

Session or Year and Chapter	Short Title	Extent of Repeal
17 & 18 Geo. 5 c. 21 .	The Intoxicating Liquor and Licensing Act (Northern Ireland) 1927	Section 2(2)

PART II

Transitional provision

As from 10th May 1971, and pending the coming into operation of section 49 of the Act, the reference in section 2(2) of the Intoxicating Liquor and Licensing Act (Northern Ireland) 1927 to the hours specified for the purpose of the sale of intoxicating liquor by the Act of 1923 or any other enactment shall be construed as a reference to the hours specified in section 42 of the Act and the reference to section 10 of the Act of 1923 shall be construed as a reference to section 51 of the Act.

(e) 1954. c. 33.